

House Bill 21, by repealing Session Law, removes the termination date for three recycling tax incentives that are set to expire:

This bill eliminates the termination date for the tax credit for investment in property used to collect or process reclaimable materials. It is set to expire in Dec. 2011. By repealing Session Law the word "(Temporary)" as well as the termination date at the end of the section of law is removed from the current law. Here is the current law:

15-32-602, MCA. (Temporary) Amount and duration of credit -- how claimed. (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-1101, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

(2) Subject to subsection (4), a taxpayer qualifying for a credit under 15-32-603 is entitled to claim a credit, as provided in subsection (3), for the cost of each item of property purchased to collect or process reclaimable material or to manufacture a product from reclaimed material only in the year in which the property was purchased.

(3) The amount of the credit that may be claimed under this section for investments in depreciable property is determined according to the following schedule:

- (a) 25% of the cost of the property on the first \$250,000 invested;
- (b) 15% of the cost of the property on the next \$250,000 invested; and
- (c) 5% of the cost of the property on the next \$500,000 invested.

(4) A credit may not be claimed for investments in depreciable property in excess of \$1 million. (Terminates December 31, 2011--secs. 6, 8, Ch. 569, L. 2005.)

15-32-603. (Temporary) Credit for investment in property used to collect or process reclaimable material or to manufacture a product from reclaimed material. (1) The following requirements must be met to be entitled to a tax credit for investment in property to collect or process reclaimable material or to manufacture a product from reclaimed material:

(a) The investment must be for depreciable property used primarily to collect or process reclaimable material or to manufacture a product from reclaimed material.

(b) (i) The taxpayer claiming a credit must be a person who, as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that collects or processes reclaimable material or that manufactures a product from reclaimed material. For the purposes of this section, a business qualifies as a business that collects reclaimable material if it gathers reclaimable material for later sale or processing for another business that has as its primary business function the collection or processing of reclaimable material or the manufacture of a product from reclaimed material. The collection of reclaimable material may be a minor or nonprofit part of a business otherwise engaged in a retail trade or other business activity.

(ii) The taxpayer may but need not operate or conduct a business that collects or processes reclaimable material or manufactures a product from reclaimed material. If more than one person has an interest in a business with qualifying property, they may allocate all or any part of the investment cost among themselves and their successors or assigns.

(c) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable material or manufacturing a product from reclaimed material during the tax year for which the credit is claimed.

(d) The reclaimed material collected, processed, or used to manufacture a product may not be an industrial waste generated by the person claiming the tax credit unless:

(i) the person generating the waste historically has disposed of the waste onsite or in a licensed landfill; and

(ii) standard industrial practice has not generally included the reuse of the waste in the manufacturing process.

(2) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

(3) A tax credit otherwise allowable under this section that is not used by the taxpayer in the taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

(4) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(5) If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in equipment necessary to collect or process reclaimable material or to manufacture a product from reclaimed material. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law. (Terminates December 31, 2011--secs. 6, 8, Ch. 569, L. 2005.)

This bill eliminates the termination date for the deduction, 10% of the taxpayer's expenditures for the purchase of recycled materials. It is set to expire in Dec. 2011. By repealing Session Law the word "(Temporary)" as well as the termination date at the end of the section of law is removed from the current law. Here is the current law:

15-32-610, MCA. (Temporary) Deduction for purchase of recycled material. In addition to all other deductions from adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct an additional amount equal to 10% of the taxpayer's expenditures for the purchase of recycled material that was otherwise deductible by the taxpayer as business-related expense in Montana. (Terminates December 31, 2011--secs. 6, 8, Ch. 569, L. 2005.)

This bill eliminates the termination date for the credit against air quality permitting fees for certain uses of post-consumer glass in recycled materials. It is set to expire in Dec. 2009. By repealing Session Law the word "(Temporary)" as well as the termination date at the end of the section of law is removed from the current law. Here is the current law:

75-2-225, MCA. (Temporary) Amount and duration of credit -- how claimed. (1) An applicant may receive a credit against the fees imposed in 75-2-220 for using postconsumer glass in recycled material if the applicant qualifies under 75-2-226.

(2) Subject to 75-2-226(2), an applicant qualifying for a credit under 75-2-226 is entitled to claim a credit, as provided in subsection (3) of this section, for using postconsumer glass in recycled material in the calendar year subsequent to the calendar year in which the postconsumer glass was used in recycled material.

(3) (a) The amount of the credit that may be claimed under this section is \$8 for each ton of postconsumer glass that was used as a substitute for nonrecycled material in the calendar year prior to the calendar year for which the applicant is paying fees for permits under 75-2-220.

(b) The maximum credit allowable in any calendar year for fees payable under 75-2-220 is \$2,000 or the total amount of fees due, whichever is less. (Terminates December 31, 2009--secs. 3, 5, Ch. 129, L. 2005.)

75-2-226. (Temporary) Credit for use of postconsumer glass. (1) The following requirements must be met for an applicant to be entitled to a credit for the use of postconsumer glass:

(a) The postconsumer glass must have been used in recycled material in the calendar year prior to the calendar year in which the applicant is applying for and paying for permits under 75-2-220.

(b) (i) The applicant claiming a credit must be a person who, as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that uses

postconsumer glass in recycled materials. The use of postconsumer glass as recycled material may be a minor or nonprofit part of a business otherwise engaged in a business activity.

(ii) The applicant may but need not operate or conduct a business that uses postconsumer glass as recycled material. If more than one person has an interest in a business with qualifying uses of postconsumer glass, they may allocate all or any part of the allowable credit among themselves and their successors or assigns.

(c) The business must have been owned or leased by the applicant claiming the credit during the calendar year prior to the calendar year for which the permit fees are due under 75-2-220, except as otherwise provided in subsection (1)(b), and must have used postconsumer glass in recycled material during the calendar year prior to the calendar year for which the credit is claimed.

(d) The postconsumer glass used in recycled material may not be an industrial waste generated by the person claiming the credit unless:

(i) the person generating the waste historically has disposed of the waste onsite or in a licensed landfill; and

(ii) standard industrial practice has not generally included the reuse of the waste in the manufacturing process.

(2) A credit under this section may be claimed by an applicant for a business only if the qualifying postconsumer glass was used in recycled material before January 1, 2010.

(3) The credit provided by this section is not in lieu of any other incentive to which the applicant otherwise may be entitled under Title 15 or this chapter.

(4) A credit otherwise allowable under this section that is not used by the applicant in the calendar year for which the permits are applied may not be:

(a) carried forward to offset an applicant's permit fees for any succeeding calendar year; or

(b) carried back to offset an applicant's permit fees for any preceding calendar year. (Terminates December 31, 2009--secs. 3, 5, Ch. 129, L. 2005.)